

ORIGINAL

PUBLIC MATTER

FILED

JUN 09 2017

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR OF CALIFORNIA
OFFICE OF CHIEF TRIAL COUNSEL
STEVEN J. MOAWAD, No. 190358
CHIEF TRIAL COUNSEL
DONNA S. HERSHKOWITZ, No. 172480
DEPUTY CHIEF TRIAL COUNSEL
RENE L. LUCARIC, No. 180005
ASSISTANT CHIEF TRIAL COUNSEL
R. KEVIN BUCHER, No. 132003
ACTING SUPERVISING ATTORNEY
KIMBERLY G. KASRELIOVICH, No. 261766
SENIOR TRIAL COUNSEL
STACIA L. JOHNS, No. 292446
DEPUTY TRIAL COUNSEL
845 South Figueroa Street
Los Angeles, California 90017-2515
Telephone: (213) 765-1004

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of:)	Case Nos. 16-J-17320
)	17-J-00289
TY ODELL CLEVENGER,)	
No. 216094,)	NOTICE OF DISCIPLINARY CHARGES
)	
A Member of the State Bar)	

NOTICE - FAILURE TO RESPOND!

IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE
WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT
THE STATE BAR COURT TRIAL:

- (1) YOUR DEFAULT WILL BE ENTERED;
- (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU
WILL NOT BE PERMITTED TO PRACTICE LAW;
- (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN
THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION
AND THE DEFAULT IS SET ASIDE, AND;
- (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.
SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE
OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN
ORDER RECOMMENDING YOUR DISBARMENT WITHOUT
FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,
RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

///

1 The State Bar of California alleges:

2 JURISDICTION

3 1. Ty Odell Clevenger ("respondent") was admitted to the practice of law in the State of
4 California on December 3, 2001, was a member at all times pertinent to these charges, and is
5 currently a member of the State Bar of California.

6 PROFESSIONAL MISCONDUCT IN A FOREIGN JURISDICTION: Case No. 16-J-17320

7
8 2. On or about August 26, 2014, District Court of Collin County, Texas, 380th Judicial
9 District ordered that respondent be disciplined upon findings that respondent had committed
10 professional misconduct in that jurisdiction as set forth in the Second Amended Disciplinary
11 Petition and Request for Disclosure, filed on or about June 30, 2014. Thereafter, the decision in
12 the foreign jurisdiction became final.

13 3. A certified copy of the Agreed Judgment of Public Reprimand in Cause No. 380-
14 01407-2013, entered on or about August 26, 2014, of the foreign jurisdiction is attached hereto
15 as Exhibit 1 and incorporated by reference.

16 4. A certified copy of the Findings of Facts and Conclusions of Law are contained in the
17 Second Amended Disciplinary Petition and Request for Disclosure in Cause No. 380-01407-
18 2013, filed on or about June 30, 2014, of the foreign jurisdiction is attached hereto as Exhibit 2
19 and is incorporated by reference.

20 5. Copies of the statutes, rules or court orders of the foreign jurisdiction found to have
21 been violated by respondent are attached as Exhibit 3 and incorporated by reference;

22 6. Respondent's culpability as determined by the foreign jurisdiction indicates that the
23 following California statutes or rules have been violated or warrant the filing of this Notice of
24 Disciplinary Charges: Business and Professions Code section 6068(c).

25 ISSUES FOR DISCIPLINARY PROCEEDINGS: Case No. 16-J-17320

26 7. The attached findings and orders are conclusive evidence that respondent is culpable
27 of professional misconduct in this state subject only to the following issues:
28

- 1 A. The degree of discipline to impose;
- 2 B. Whether, as a matter of law, respondent's culpability determined in the
- 3 proceeding in the other jurisdiction would not warrant the imposition of
- 4 discipline in the State of California under the laws or rules binding upon
- 5 members of the State Bar at the time the member committed misconduct in
- 6 such other jurisdiction; and
- 7 C. Whether the proceedings of the other jurisdiction lacked fundamental
- 8 constitutional protection.

9 PROFESSIONAL MISCONDUCT IN A FOREIGN JURISDICTION: Case No. 17-J-00289

10 8. On or about November 30, 2016, the United States District Court for the District of

11 Columbia ordered that respondent be disciplined upon findings that respondent had committed

12 professional misconduct in that jurisdiction as set forth in the Charge of Improper Professional

13 Conduct, filed on or about December 3, 2015. Thereafter, the decision in the foreign jurisdiction

14 became final.

15 9. A certified copy of the Order in Attorney Grievance Docket No. 15-19, entered on or

16 about November 30, 2016, of the foreign jurisdiction is attached hereto as Exhibit 4 and

17 incorporated by reference.

18 10. Findings of Facts, Conclusions of Law, and Disposition are contained within the

19 certified copy of the Order in Attorney Grievance Docket No. 15-19, entered on or about

20 November 30, 2016, of the foreign jurisdiction, attached as Exhibit 4 and are incorporated by

21 reference.

22 11. A certified copy of the Charge of Improper Professional Conduct, filed on or about

23 December 3, 2015, wherefrom the foreign jurisdiction found its factual and legal basis for the

24 aforementioned Order, is attached as Exhibit 5 and incorporated by reference.

25 12. Copies of the statutes, rules or court orders of the foreign jurisdiction found to have

26 been violated by respondent are attached as Exhibit 6 and incorporated by reference;

27 Respondent's culpability as determined by the foreign jurisdiction indicates that the following

28

1 California statutes or rules have been violated or warrant the filing of this Notice of Disciplinary
2 Charges: Business and Professions Code section 6068(c); Rules of Professional Conduct, rule 3-
3 200(A).

4 ISSUES FOR DISCIPLINARY PROCEEDINGS: Case No. 17-J-00289

5 13. The attached findings and orders are conclusive evidence that respondent is culpable
6 of professional misconduct in this state subject only to the following issues:

- 7 A. The degree of discipline to impose;
- 8 B. Whether, as a matter of law, respondent's culpability determined in the
9 proceeding in the other jurisdiction would not warrant the imposition of
10 discipline in the State of California under the laws or rules binding upon
11 members of the State Bar at the time the member committed misconduct in
12 such other jurisdiction; and
- 13 C. Whether the proceedings of the other jurisdiction lacked fundamental
14 constitutional protection.

15 14. Respondent shall bear the burden of proof with regard to the issues set forth in
16 subparagraphs B and C of the preceding paragraph.

17 **NOTICE - INACTIVE ENROLLMENT!**

18 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR**
19 **COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE**
20 **SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL**
THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO

21 **THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN**
22 **INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE**
ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE
RECOMMENDED BY THE COURT.

23 **NOTICE - COST ASSESSMENT!**

24 **IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC**
25 **DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS**

26 ///

27 ///

28 ///

1 **INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING**
2 **AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND**
3 **PROFESSIONS CODE SECTION 6086.10.**

4 Respectfully submitted,

5 THE STATE BAR OF CALIFORNIA
6 OFFICE OF THE CHIEF TRIAL COUNSEL

7 DATED: 6/9/17

8 By: KK
9 Kimberly G. Kasrelivich
10 Senior Trial Counsel

11 DATED: 6/9/2017

12 By: Stacia L. Johns
13 Stacia L. Johns
14 Deputy Trial Counsel
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CAUSE NO. 380-01407-2013

**COMMISSION FOR
LAWYER DISCIPLINE**

V.

TY ODELL CLEVINGER

§
§
§
§
§
§

IN THE DISTRICT COURT OF

COLLIN COUNTY, TEXAS

380TH JUDICIAL DISTRICT

AGREED JUDGMENT OF PUBLIC REPRIMAND

The following Agreed Judgment is entered at the request of Petitioner, the Commission for Lawyer Discipline, and at the request of Respondent, Ty Odell Clevenger, who agree that all matters of fact and things in controversy between them have been fully and finally compromised and settled.

The Court finds that the acts, omissions, and conduct on the part of Respondent constitute a violation of Rule 3.02 of the Texas Disciplinary Rules of Professional Conduct.

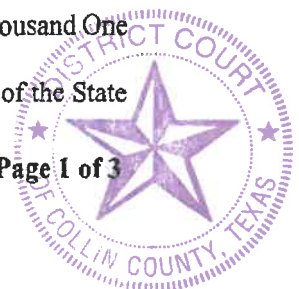
As to each such violation the Court finds that Respondent, Ty Odell Clevenger, has committed professional misconduct as defined in Rule 1.06 (W) of the Texas Rules of Disciplinary Procedure.

As to such act of misconduct, the Court finds that the appropriate sanction is a **PUBLIC REPRIMAND**.

IT IS, ACCORDINGLY, ORDERED, ADJUDGED, and DECREED that Respondent, Ty Odell Clevenger, State Bar Card No. 24034380, be **PUBLICLY REPRIMANDED** for the act constituting misconduct while acting in his capacity as an attorney at law in the State of Texas, and that this reprimand be made a matter of public record and be published in the *Texas Bar Journal*.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED, that Respondent, Ty Odell Clevenger, shall pay reasonable attorneys' fees and court costs in the amount of One Thousand One Hundred and 00/100 Dollars (\$1,100) to the Office of the Chief Disciplinary Counsel of the State

Agreed Judgment of Public Reprimand/Clevenger



Bar of Texas, 14651 Dallas Parkway, Suite 925, Dallas, Texas 75254. Said attorneys' fees and costs shall be paid by cashier's check or money order, made payable to the State Bar of Texas, and submitted contemporaneously with the signing of this judgment.

It is further **ORDERED** that all amounts ordered herein are due to the misconduct of Respondent and are assessed as a part of the sanction in accordance with Rule 1.06(Z) of the Texas Rules of Disciplinary Procedure. Any amount not paid shall accrue interest at the maximum legal rate per annum until paid and the State Bar of Texas shall have all writs and other post-judgment remedies against Respondent in order to collect all unpaid amounts.

It is further **ORDERED** that the Clerk of this Court shall forward a certified copy of the current Disciplinary Petition on file in this case, along with a certified copy of this *Agreed Judgment of Public Reprimand* to the following: (1) Clerk of the SUPREME COURT OF TEXAS, Supreme Court Building, P.O. Box 12248, Austin, Texas 78711; (2) Chief Disciplinary Counsel of the STATE BAR OF TEXAS, Attn: Nancy Ashcraft, P.O. Box 12487, Austin, Texas 78711; and (3) Dirrell S. Jones, Trial Attorney, Office of the Chief Disciplinary Counsel of the STATE BAR OF TEXAS, The Princeton, 14651 N. Dallas Parkway, Suite 925, Dallas, Texas 75254.

All relief not expressly granted in this Agreed Judgment of Public Reprimand is DENIED.

SIGNED this 18 day of August 2014.



Honorable Craig Mixson
Presiding Judge by Appointment

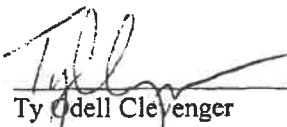
Agreed Judgment of Public Reprimand/Clevenger

Page 2 of 3



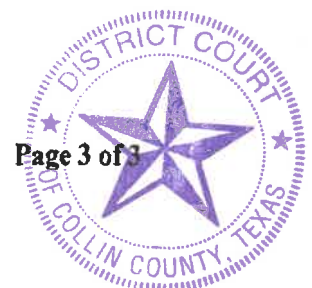
AGREED AS TO BOTH FORM AND SUBSTANCE:


Dirrell S. Jones
Attorney for Petitioner
State Bar No. 24071306

 8/12/14
Ty Odell Clevenger
Respondent
State Bar No. 24034380

STATE OF TEXAS
COUNTY OF COLLIN
I, the undersigned, being a duly qualified and sworn member of the State Bar of Texas, do hereby certify that the foregoing is a true and correct copy of the original as the same appears in the records of the State Bar of Texas.
WITNESS MY HAND AND SEAL OF OFFICE this 12th day of August, 2014.
Dirrell S. Jones
Attorney for Petitioner
State Bar No. 24071306

Agreed Judgment of Public Reprimand/Clevenger





STATE OF TEXAS)
COUNTY OF COLLIN)

I, Lynne Finley, District Clerk in and for Collin County Texas,
do hereby certify that the above foregoing is a true and correct copy of the
original document as the same appears on the file in the District Court,
Collin County, Texas. Witness my hand and seal of said Court, this
the 14 day of Sept A.D., 20 11.

LYNNE FINLEY, DISTRICT CLERK
COLLIN COUNTY, TEXAS

Laura Edwards DEPUTY

NO. 380-01407-2013

COMMISSION FOR
LAWYER DISCIPLINE

V.

TY ODELL CLEVINGER

§
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§

IN THE DISTRICT COURT OF

COLLIN COUNTY, TEXAS

380th JUDICIAL DISTRICT

SECOND AMENDED DISCIPLINARY PETITION AND REQUEST FOR DISCLOSURE

TO THE HONORABLE JUDGE OF SAID COURT:

Petitioner, the Commission for Lawyer Discipline, a committee of the State Bar of Texas ("Petitioner"), complains of Respondent, Ty Odell Clevenger ("Respondent"), State Bar No. **24034380** showing the Court:

I.

Pursuant to Rules 190.1 and 190.3, TEXAS RULES OF CIVIL PROCEDURE (TRCP), Petitioner intends discovery in this case to be conducted under the Level II Discovery Control Plan.

II.

Petitioner brings this disciplinary action pursuant to the State Bar Act, Tex. Gov't. Code Ann. §81.001, et seq. (Vernon 1988), the Texas Disciplinary Rules of Professional Conduct, and the Texas Rules of Disciplinary Procedure. The complaint that forms the basis of the Disciplinary Petition was filed on or after January 1, 2004.

III.

Respondent is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas. Respondent is a resident of and has his principal place of practice in Collin County, Texas, specifically at 1095 Meadow Hill Drive, Lavon, Texas 75166. Petitioner requests that the clerk issue citation and return it to the State Bar of Texas, The Princeton, 14651 Dallas Parkway, Suite 925 Dallas, Texas 75254. Petitioner will employ private process service to serve Respondent.



IV.

On May 18, 2009, Respondent filed a lawsuit in the United States District Court for the Western District of Texas in Waco, Texas ("*Erwin I*"), on his clients' behalf alleging, among other things, racketeering and conspiracy claims in violation of the Racketeer Influenced and Corrupt Organizations Act ("RICO"). On June 17, 2009, Respondent filed another lawsuit in the United States District Court for the Southern District of Texas in Houston, Texas ("*Erwin II*"), on his clients' behalf which raised claims alleging RICO violations similar to the *Erwin I* case. Respondent did not dispose of *Erwin I* before filing *Erwin II*. The two cases were consolidated and *Erwin II* was transferred to the United States District Court for the Western District of Texas in Waco, Texas.

V.

Such acts and/or omissions on the part of Respondent as are described in Paragraph IV hereinabove, which occurred on or after January 1, 1990, constitute conduct that violates Rule 3.02 of the Texas Disciplinary Rules of Professional Conduct.

VI.

The complaint that forms the basis of the cause of action hereinabove set forth was brought to the attention of the Office of the Chief Disciplinary Counsel of the State Bar of Texas by Bryan F. Russ III filing a complaint on or about July 16, 2012.



PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner prays for judgment that Respondent be disciplined as the facts shall warrant; and that Petitioner have such other relief to which entitled, including direct expenses, costs of court, and reasonable attorneys' fees and legal assistant fees.

Respectfully submitted,

Linda A. Acevedo
Chief Disciplinary Counsel

Dirrell S. Jones
Assistant Disciplinary Counsel

State Bar of Texas
The Princeton
14651 N. Dallas Parkway, Suite 925
Dallas, Texas 75254
(972) 383-2900
(972) 383-2935 Facsimile
dirrell.jones@texasbar.com

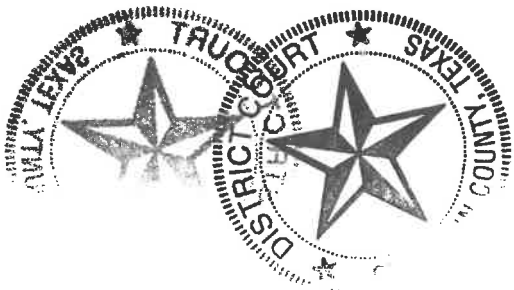
/s/ Dirrell S. Jones

Dirrell S. Jones
State Bar Card No. 24071306

ATTORNEYS FOR PETITIONER

STATE OF TEXAS
COUNTY OF DALLAS
I, Linda A. Acevedo, Chief Disciplinary Counsel, do hereby certify that the within petition was filed for filing in the District Court of Dallas County, Texas, on the 1st day of June, 2010, and that the same is a true and correct copy of the original document as the same appears on file in the District Court of Dallas County, Texas, and that I am a duly qualified and sworn officer of said court.
Witness my hand and seal of said court this 1st day of June, 2010.
Linda A. Acevedo, District Clerk
DALLAS COUNTY, TEXAS





STATE OF TEXAS)
COUNTY OF COLLIN)

I, Lynne Finley, District Clerk in and for Collin County Texas,
do hereby certify that the above foregoing is a true and correct copy of the
original document as the same appears on the file in the District Court,
Collin County, Texas. Witness my hand and seal of said Court, this
21 day of Oct. A.D., 20 11.

LYNNE FINLEY, DISTRICT CLERK
COLLIN COUNTY, TEXAS

Laura Edwards DEPUTY

Tex. R. Prof Conduct 3.02

This document is current through January 20, 2017

Texas Court Rules > STATE RULES > TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT > III. ADVOCATE

Rule 3.02 Minimizing the Burdens and Delays of Litigation

In the course of litigation, a lawyer shall not take a position that unreasonably increases the costs or other burdens of the case or that unreasonably delays resolution of the matter.

Annotations

Commentary

Comment:

1. This **Rule** addresses those situations where a lawyer or the lawyer's client perceive the client's interests as served by **conduct** that delays resolution of the matter or that increases the costs or other burdens of a case. Because such tactics are frequently an appropriate way of achieving the legitimate interests of the client that are at stake in the litigation, only those instances that are unreasonable are prohibited. As to situations where such tactics are inconsistent with the client's interests, see **Rule** 1.01. As to those where the lawyer's **conduct** is motivated primarily by his desire to receive a larger fee, see **Rule** 1.04 and Comment, paragraph 6 thereto.

2. A lawyer's obligations under this **Rule** are substantially fulfilled by complying with **Rules** 3.01, 3.03, and 3.04 as supplemented by applicable **rules** of practice or procedure. See paragraph 4 to the Comment to **Rule** 3.01.

Unreasonable

Delay

3. Dilatory practices indulged in merely for the convenience of lawyers bring the administration of justice into disrepute and normally will be unreasonable within the meaning of this **Rule**. See also **Rule** 1.01(b) and (c) and paragraphs 6 and 7 of the Comment thereto. This **Rule**, however, does not require a lawyer to eliminate all conflicts between the demands placed on the lawyer's time by different clients and proceedings. Consequently, it is not **professional** misconduct either to seek (or as a matter of **professional** courtesy, to grant) reasonable delays in some matters in order to permit the competent discharge of a lawyer's multiple obligations.

4. Frequently, a lawyer seeks a delay in some aspect of a proceeding in order to serve the legitimate interests of the client rather than merely the lawyer's own interests. Seeking such delays is justifiable. For example, in order to represent the legitimate interests of the client effectively, a diligent lawyer representing a party named as a defendant in a complex civil or criminal action may need more time to prepare a proper response than allowed by applicable **rules** of practice or procedure. Similar considerations may pertain in preparing responses to extensive discovery requests. Seeking reasonable delays in such circumstances is both the right and the duty of a lawyer.

5. On the other hand, a client may seek to have a lawyer delay a proceeding primarily for the purpose of harassing or maliciously injuring another. Under this **Rule**, a lawyer is obliged not to take such an action. See also **Rule** 3.01. It is not a justification that similar **conduct** is often tolerated by the bench and the bar. The question is whether a competent lawyer acting in good faith would regard the course of action as having some substantial purpose other than delay undertaken for the purpose of harassing or maliciously injuring. The fact that a client realizes a financial or other benefit from such otherwise unreasonable delay does not make that delay reasonable.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

NOV 30 2016

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

TY CLEVINGER)

Respondent)

Member of the Bar of the District)
Court for the District of Columbia)

Attorney Grievance
Docket No. 15-19

ORDER

This matter comes before the Disciplinary Panel (hereinafter "Panel") for approval of the terms of settlement resolving the issues raised by the charges filed by Committee on Grievances against the Respondent, Ty Clevenger.

BACKGROUND

The Committee on Grievances ("COG"), pursuant to LCvR 83.16(d)(7), submitted charges to the Panel alleging that Ty Clevenger, a member of the Bar of this Court, violated certain Rules of Professional Conduct.¹ See Dkt. 1. In particular, Mr. Clevenger was charged with:

1. Violation of Rule 8.4(d) – Misconduct

It is professional misconduct for a lawyer to:

(d) Engage in conduct that seriously interferes with the administration of justice

2. Violation of Rule 3 – Meritorious Claims and Contentions

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good-faith argument for an extension, modification, or reversal of existing law.

3. Violation of Rule 3.2 – Expediting Litigation

U.S. District and Bankruptcy Courts
for the District of Columbia

A TRUE COPY

ANGELA D. CAESAR, Clerk

By *Dennis J. Watson*
Deputy Clerk

¹ The factual support and specific charges of violations of the Rules of Professional Conduct were previously submitted to the Panel as COG Exhibit 2.

- (a) In representing a client, a lawyer shall not delay a proceeding when the lawyer knows or when it is obvious that such action would serve solely to harass or maliciously injure another.
- (b) A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

The charges filed against Mr. Clevenger were the result of COG's investigation that was spurred by a letter of complaint sent to COG by Patrick Kearney.² Mr. Kearney's letter of complaint to COG arose out of very contentious litigation in the case of *Wade A. Robertson v. William C. Cartinhour*, 1:09-cv-1642. That case was litigated in the United States District Court for the District of Columbia before United States District Court Judge Ellen Huvelle.³ The litigation of *Robertson v. Cartinhour* involved battles on many fronts, in multiple courts, and included the filing of multiple appeals. These multiple court battles and appeals resulted in the Respondent being sanctioned, not only by Judge Huvelle, but also by the then-Chief Judge of this Court, a bankruptcy court judge, and the United States Court of Appeals for the District of Columbia Circuit ("the D.C. Circuit").

The Panel notes that, in a Memorandum Opinion, Judge Huvelle listed and summarized several events involving sanctions against Mr. Clevenger that occurred since the Court dismissed *Robertson I* on March 16, 2012. Those events included:

1. On April 2, 2012, Chief Judge Lambert imposed sanctions of \$7,249.00 against Messrs. Robertson and Clevenger jointly because they had filed a frivolous bankruptcy case in an attempt to stall litigation in this district in front of Judge Huvelle. Judge Lamberth found that the sanctions were warranted because of the "groundless nature of the [bankruptcy] appeal, unfounded whatsoever in the law."

² Mr. Kearney was opposing counsel in a case against one of Mr. Clevenger's clients. The letter from Mr. Kearney is dated December 29, 2014, and is COG's Exhibit 1.

³ *Robertson v. Cartinhour* resulted in a jury verdict against Mr. Clevenger's client in the amount of \$3.5 million in compensatory damages and \$3.5 million in punitive damages.

2. On April 3, 2012, the D.C. Circuit affirmed the jury's \$7 million verdict in *Robertson I* and found that Robertson presented "no meritorious argument on appeal."
3. On May 4, 2012, Bankruptcy Judge Teel granted a motion for sanctions and fined Messrs. Clevenger and Robertson \$10,000 each, finding that "Clevenger joined Robertson in knowingly and in bad faith advancing frivolous arguments in [the] bankruptcy case."
4. On June 12, 2012, Mr. Clevenger filed an appeal in the D.C. Circuit seeking review of this Court's dismissal of *Robertson II*.
5. On June 25, 2012, Chief Judge Lamberth ordered Messrs. Clevenger and Robertson to show cause why they "should not be enjoined from further filings [in the bankruptcy-related matters], filing further appeals from the underlying bankruptcy case, and from filing new related matters in this district court." Chief Judge Lamberth responded to their objections on July 25, 2012, by listing the egregious behavior engaged in dating back to the inception of *Robertson I*.⁴

The Panel has determined that there is both a factual and legal basis for the charges filed by COG against Mr. Clevenger. The Panel notes that Mr. Clevenger submitted written responses to the charges filed by COG. Those responses included: Mr. Clevenger's Motion to Dismiss, Dkt. 6, a Motion to Permit Discovery, Dkt. 4, and a Motion to Transfer, Dkt. 5. In the Motion to Dismiss, Mr. Clevenger alleged that he was a victim of selective prosecution. *See* Dkt. 6 at 2-3. However, in a written Order issued by this Panel on October 26, 2016, all of Mr. Clevenger's motions were denied. *See* Dkt. 25. With regard to the selective prosecution defense, this Panel stated in its Order that Mr. Clevenger "has not identified any evidence that would support a 'colorable claim' of selective prosecution." *Id.* at 2.

⁴ See COG Exhibit 33 - *Robertson v. Cartinhour*, 883 F. Supp. 2d 121, 124 (D.D.C. 2012).

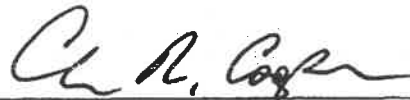
An evidentiary hearing was scheduled in this matter for November 29, 2016. Meanwhile, at the conclusion of the motions hearing on October 14, 2016, the parties were encouraged to explore ways in which this matter could be resolved. Consistent with the Panel's encouragement to work toward a resolution, it was reported to the Panel that Mr. Clevenger and COG entered negotiations and have reached a settlement.

ORDER

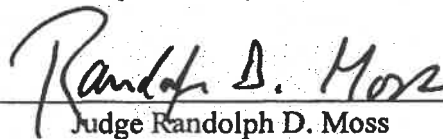
Based upon the agreed terms reached by the parties, it is on this 30th day of November 2016, hereby ORDERED that:

1. Respondent, Ty Clevenger, be and is hereby suspended from practicing law in the United States District Court for the District of Columbia for 120 days from November 29, 2016.
2. Respondent, Ty Clevenger, is hereby fined in the amount of \$5,000.00 (Five Thousand Dollars) to be paid in full by no later than December 30, 2016.
3. The letter of resignation (Attachment A) from the Bar of this Court that is signed by Respondent and which takes effect on March 29, 2017 (120 days from November 29, 2016), is accepted by this Panel and is incorporated as an integral part of this Order.

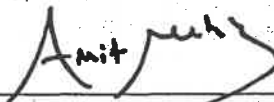
SO ORDERED.



Judge Christopher R. Cooper



Judge Randolph D. Moss



Judge Amit Mehta

TY CLEVENGER
21 Bennett Avenue #62
New York, New York 10033

telephone: 979.985.5289
facsimile: 979.530.9523

tyclevenger@yahoo.com
Texas Bar No. 24034380

November 1, 2016

The Disciplinary Panel
United States District Court
For the District of Columbia
333 Constitution Ave. NW
Washington, DC 20001

Re: In the Matter of Ty Clevenger, Docket No. 15-19

Members of the Disciplinary Panel:

I hereby submit my resignation from the Bar of this Court to become effective on March 29, 2017. This letter of resignation is irrevocable.

I request that a copy of this letter be sent to the Clerk of the United States District Court for the District of Columbia so that an appropriate entry can be made in the attorney's registry.

Respectfully submitted,


Ty Clevenger

U.S. District and Bankruptcy Courts
for the District of Columbia

A TRUE COPY

ANGELA D. CAESAR, Clerk

By


Deputy Clerk

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

DEC 03 2015

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

Ty Clevenger

Respondent

Member of the Bar of the
United States District Court
For the District of Columbia

Attorney Grievance

Docket No. 15- 19

Case: 1:16-mc-02240

Assigned To : Cooper, Christopher R.

Assign. Date : 10/31/2016

Description: Misc.

CHARGE OF IMPROPER PROFESSIONAL CONDUCT

Pursuant to LCvR 83.16(d)(7), the Committee on Grievances of the United States District Court for the District of Columbia ("the Committee") requests that charges of professional misconduct, as set out below, be filed against Respondent Ty Clevenger. The charges are based on the following information that has come to the attention of the Committee:

1. By letter dated December 29, 2014, Mr. Patrick J. Kearney, an attorney and member of the bar of this Court, filed a Complaint regarding the Respondent's conduct beginning in the case of *Wade Robertson v. William Cartinhour, Jr.*, 1:09-cv-1642 (ESH), and continuing in litigation before the United States Court of Appeals for the District of Columbia Circuit, the United States Bankruptcy Court for the District of Columbia, as well as several proceedings before courts in other jurisdictions but all related to the underlying litigation in this Court. A copy of Mr. Kearney's Complaint is attached as Exhibit 1. Mr. Kearney was notified by the Committee that his initial Complaint did not comply with LCvR 83.16(d)(1) in that it was not

submitted under penalty of perjury. On July 29, 2015, Mr. Kearney resubmitted his Complaint under penalty of perjury. A copy of the resubmitted Complaint is attached as Exhibit 2.

2. Mr. Kearney's Complaint alleged that Respondent Ty Clevenger had embarked on a "pattern and practice of abuse which has substantially interfered with, and continues to substantially interfere with, the administration of justice." Ex. 1 (Complaint) at 1. Mr. Kearney's Complaint asserts that "[a]t a minimum, Mr. Clevenger's behavior violates Rule 4.4(a) and Rule 8.4(d) of the Rules of Professional Conduct of the District of Columbia."¹ *Id.* Mr. Kearney's allegations can be summarized as follows.

In August 2009, Mr. Wade Robertson, an attorney proceeding *pro se*, filed a declaratory judgment action against Willis Cartinhour relating to \$3.5 million Mr. Robertson had received as Mr. Cartinhour's attorney. The case was assigned to the Honorable Ellen S. Huvelle. Mr. Cartinhour, represented by Mr. Kearney, filed a counterclaim alleging fraud and other torts. Following a hearing in March 2010, Judge Huvelle entered a preliminary injunction sequestering funds traceable to Mr. Cartinhour's original \$3.5 million investment.

In May 2010, Respondent Ty Clevenger entered an appearance on behalf of Mr. Robertson in the U.S. Court of Appeals for the District of Columbia Circuit, appealing the preliminary injunction. Respondent filed a number of motions in the D.C. Circuit, including a motion to disqualify Mr. Kearney from representing Mr. Cartinhour, and several motions to stay the proceedings before Judge Huvelle.

¹ In his original Complaint, Mr. Kearney also alleged that Respondent had sought contact with Mr. Cartinhour and/or Mr. Cartinhour's psychiatrist without informing Mr. Cartinhour's counsel, in violation of the Rules of Professional Conduct. Mr. Kearney withdrew that allegation when he resubmitted his Complaint on July 29, 2015.

In June 2010, Respondent also filed a complaint with the Committee, alleging that Mr. Kearney filed a false affidavit in the preliminary injunction hearing. At the time of his complaint to the Committee, Respondent did not reveal that he was serving as Mr. Robertson's counsel. The Committee dismissed that complaint in December 2010.

The D.C. Circuit affirmed the injunction entered by Judge Huvelle. In October 2010, the D.C. Circuit also, after issuing a warning to Mr. Clevenger regarding filing frivolous motions, sanctioned Mr. Clevenger for filing yet another frivolous motion. A copy of the order cautioning Respondent and a copy of the order sanctioning Respondent are attached as Exhibits 3 and 4. The Court of Appeals sanctioned Respondent because he "did not heed [the Court's earlier] warning and instead filed the instant motion for stay, his third in this appeal and his fourth in this litigation in this court as a whole."

After his unsuccessful attempts in the D.C. Circuit to stay the proceedings before Judge Huvelle, Respondent filed an action in the United States Bankruptcy Court for the Western District of Tennessee, seeking a temporary restraining order and an automatic stay of the proceedings before Judge Huvelle. That court denied the motion and transferred the case to the United States Bankruptcy Court for the District of Columbia. See Exhibit 5. Respondent appealed that order to the United States District Court for the Western District of Tennessee, but the district court affirmed the bankruptcy court's order. See Exhibit 6.

In February 2011, Judge Huvelle presided over a jury trial in which a verdict was returned for Mr. Cartinhour and against Mr. Robertson. The jury awarded \$3.5 million in damages plus \$3.5 million in punitive damages based on breach of fiduciary duties as a partner and attorney, and for malpractice.

Following the jury trial, Respondent filed a series of motions on behalf of Mr. Robertson in the U.S. Bankruptcy Court for the District of Columbia (Judge Teel) seeking to void the \$7 million judgment and seeking sanctions against Mr. Kearney and others. When Judge Teel denied Respondent's motions, Respondent appealed to the United States District Court (Judge Lamberth).

In April 2012, then-Chief Judge Lamberth sanctioned Respondent and Mr. Robertson in the amount of \$7,249.00, finding that the appeal from Judge Teel's order was ill founded and frivolous. *See* Exhibit 7. Judge Lamberth found Respondent's arguments to be "ill-founded and frivolous", and that "[t]he complete lack of merit to these claims convinces the Court that they could have been brought for no purpose other than to harass and delay." . . . The groundless nature of the appeal, unfounded whatsoever in the law warrants sanctions." *Id.* at 5. The Court also noted Respondent's "lengthy history of misconduct and of sanctions already imposed . . ." *Id.* at 6.

In May 2012, Respondent's conduct before the Bankruptcy Court led Judge Teel to sanction Respondent \$10,000 (later reduced to \$5,000), finding all motions for sanctions and to void the judgment were frivolous. *See* Exhibit 8. Judge Teel concluded that Respondent had "knowingly and in bad faith advance[d] frivolous arguments", *id.* at 4, had "acted in bad faith in filing papers he must have known were frivolous," and had done so "in an effort to harass Cartinhour with respect to his efforts to obtain relief against Robertson. . .," *id.* at 35.

Meanwhile, in March 2012, Judge Huvelle dismissed a case brought by Respondent under the Racketeer Influenced and Corrupt Organizations Act in the United States District Court for the Southern District of New York and transferred to this Court. *See* Exhibit 9.

In August, Judge Huvelle sanctioned Respondent \$124,000, finding that he filed excessive and frivolous motions in the RICO case and that his conduct in that case was "even more egregious" than the conduct that resulted in sanctions before the D.C. Circuit, Chief Judge Lamberth, and Judge Teel. *See* Exhibit 10 at 4. Judge Huvelle noted Judge Teel's opinion sanctioning Respondent for "his 'complete disregard for the facts and law in advancing . . . frivolous argument[s] [which] generated a staggering amount of work for the court, and has put Cartinhour and his attorney to the unnecessary burden of defending against frivolous arguments in this and other courts'", *id.*, but then concluded "If anything, [Respondent's] conduct here is even more egregious than in these related cases." *Id.* Finding Respondent had engaged in "bad faith conduct" and "vexatious and abusive litigation tactics in this case," *id.*, the Court declared "Enough is enough." *Id.* at 13. Judge Huvelle's

decision was affirmed by the United States Court of Appeals for the District of Columbia Circuit on January 22, 2014. *See* Exhibit 11.

Respondent did not, however, abide by the District Court's "enough is enough" message. In January 2013, after affirming the dismissal of the bankruptcy case, the D.C. Circuit sanctioned Respondent and Mr. Robertson in the amount of double the costs and reasonable attorney's fees based on their arguments in the bankruptcy appeal, and warned Respondent that "any further frivolous filings in this case may result in both [Respondent and Mr. Robertson] being enjoined from filing in this case or from filing any civil appeals or original actions in this court." *See* Exhibit 12 at 1-2.

In May 2014, the D.C. Circuit adopted a Report and Recommendations of the Committee on Admissions and Grievances for the U.S. Court of Appeals for the District of Columbia Circuit and ordered that Respondent be publicly censured for violating District of Columbia Rules of Professional Conduct 3.1 and 8.4(d). *See* Exhibit 13.

In the meantime, Respondent had filed an action in the Montgomery County Circuit Court to take Mr. Cartinhour's deposition and the deposition of Mr. Cartinhour's psychiatrist. That Court granted a blanket protective order on September 9, 2014. *See* Exhibit 14. The Court noted that "[t]he history of the case is replete with litigation references and Maryland is only the latest stop." *Id.* at 4. It further observed that several courts had denied Respondent's discovery requests, "[a]nd accordingly, I do find that any such discovery whether deposition or otherwise or as sought is simply duplicative, it's harassing, it's barred by collateral estoppel and I'm not going to grant any of those requests." *Id.* at 5.

Finally, in November 2014, after many more meritless filings, Judge Lamberth entered an extraordinarily drastic order barring Respondent from filing "any further appeals from the underlying bankruptcy case . . . and from filing new related matters in this Court." *See* Exhibit 15 at 1. Judge Lamberth concluded that "[t]his multitude of frivolous and harassing filings, both in number and in content, made by [Respondent] goes far beyond 'mere litigiousness'. The Court thus finds that a filing injunction is appropriate." *Id.* at 10

3. Pursuant to LCvR 83.16(d)(4), the Committee on Grievances served a copy of the Complaint on Respondent in June 2015. *See Exhibit 16.* Respondent was asked to specifically address the allegations in the Complaint. On July 13, 2015, Respondent submitted a response. *See Exhibit 17.*
4. In his response, Respondent does not specifically address the allegations raised in the Complaint, but rather makes a number of allegations against Mr. Kearney, claims that the Committee should dismiss the complaint or recuse itself because (a) it cannot be both prosecutor and adjudicator; and (b) the Committee had previously considered Respondent's complaint against Mr. Kearney. Respondent's response also attacks the "credibility of the sanctions orders issued by Judge Huvelle, Judge Lamberth, and Judge Teel." *See Exhibit 17 at 13.* Finally, Respondent claims in his response that he is being selectively prosecuted by the Committee, that the proceedings before the Committee should be stayed, and that he should be granted the opportunity for discovery, specifically the right to depose Mr. Cartinhour's psychiatrist, Mr. Kearney, and Judge Huvelle. *Id.* at 16.
5. At its regular meeting on August 11, 2015, the Committee construed Respondent's various motions and arguments in his response as (1) a motion to dismiss; (2) a motion to recuse on two bases; and (3) a motion to stay. After discussion and consideration, the Committee voted to deny those motions.

6. Based on the foregoing information, and the Committee's investigation into the allegations in the Complaint, including the fact that three judicial officers of this Court, in addition to the D.C. Circuit, have sanctioned Respondent based on egregious conduct that establishes a concerted pattern and effort to add expense and to harass litigants and to abuse and delay the judicial process, the Committee recommends that the Disciplinary Panel charge Respondent with the following violations of the District of Columbia Court of Appeals Rules of Professional Conduct:

a. Violation of Rule 8.4(d) – Misconduct

It is professional misconduct for a lawyer to

(d) Engage in conduct that seriously interferes with the administration of justice.

b. Violation of Rule 3 – Meritorious Claims and Contentions

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good-faith argument for an extension, modification, or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or for the respondent in a proceeding that could result in involuntary institutionalization, shall, if the client elects to go to trial or to a contested fact-finding hearing, nevertheless so defend the proceeding as to require that the government carry its burden of proof.

c. Violation of Rule 3.2 – Expediting Litigation

(a) In representing a client, a lawyer shall not delay a proceeding when the lawyer knows or when it is obvious that such action would serve solely to harass or maliciously injure another.

(b) A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

7. In light of the aforementioned violations of the Rules of Professional Conduct, the Committee on Grievances recommends that Respondent, Ty Clevenger, be disbarred from the practice of law in the United States District Court for the District of Columbia.

8. **WHEREFORE**, the Committee on Grievances of the United States District Court for the District of Columbia respectfully prays:

- (1) That these charges be filed with the Clerk of the Court;
- (2) That the Clerk of the Court be directed by the Disciplinary Panel of this Court to issue a summons to Respondent, Ty Clevenger, directing him to answer the charges within thirty (30) days after the effective date of service as provided in LCvR 83.16(d)(7);
- (3) That the Summons and a copy of the charges and the proposed Order of the Court be served upon Respondent by Certified Mail as provided in LCvR 83.16(a);

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(4) That pursuant to LCvR 83.16(d)(8), when Respondent has filed an answer, the case be set for a hearing before the Disciplinary Panel of this Court; OR, in the alternative, Respondent will have the opportunity to waive his right to a hearing and agree to the recommended discipline referred to in paragraph 7 above.

The Committee on Grievances
of the United States District Court
for the District of Columbia

By: *David E. Kendall*
David E. Kendall, Chair

Let these charges be filed:

J. Rooshing
Judge

Ang B. Ju
Judge

1/1/16
Judge

Date: 12/04/2015

**ECF
DOCUMENT**

I hereby attest and certify that this is a printed copy of a document which was electronically filed with the United States District and Bankruptcy Courts for the District of Columbia.

Date Filed: 12/31/15

ANGELA D. CAESAR, CLERK

By: *Ang B. Ju*

D.C. Bar Appx. A, Rule 8.4

State court rules are current with amendments through January 12, 2017. Local federal district and bankruptcy court rules are current with amendments received through January 1, 2017. With recent annotations.

District of Columbia Court Rules > DISTRICT OF COLUMBIA BAR RULES > APPENDIX A. RULES OF PROFESSIONAL CONDUCT

Rule 8.4. Misconduct.

It is professional misconduct for a lawyer to:

- (a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) Commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;
- (c) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;
- (d) Engage in conduct that seriously interferes with the administration of justice;
- (e) State or imply an ability to influence improperly a government agency or official;
- (f) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law; or
- (g) Seek or threaten to seek criminal charges or disciplinary charges solely to obtain an advantage in a civil matter.

Annotations

Notes

Comment

Commentary

COMMENT.

[1] Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of willful failure to file an income tax return. However, some kinds of offenses carry no such implication. Traditionally, the distinction was drawn in terms of offenses involving "moral turpitude." That concept can be construed to include offenses concerning some matters of personal morality, such as adultery and comparable offenses, that have no specific connection to fitness for the practice of law. Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, breach of trust, or serious interference with the administration of justice are in that category. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation.

[2] Paragraph (d)'s prohibition of conduct that "seriously interferes with the administration of justice" includes conduct proscribed by the previous Code of Professional Responsibility under DR 1-102(A)(5) as "prejudicial to the administration of justice." The cases under paragraph (d) include acts by a lawyer such as: failure to cooperate with Disciplinary Counsel; failure to respond to Disciplinary Counsel's inquiries or subpoenas; failure to abide by

D.C. Bar Appx. A, Rule 3.1

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District of Columbia Court Rules > DISTRICT OF COLUMBIA BAR RULES > APPENDIX A. RULES OF PROFESSIONAL CONDUCT

Rule 3.1. Meritorious claims and contentions.

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a goodfaith argument for an extension, modification, or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or for the respondent in a proceeding that could result in involuntary institutionalization, shall, if the client elects to go to trial or to a contested factfinding hearing, nevertheless so defend the proceeding as to require that the government carry its burden of proof.

Annotations

Notes

Comment to 2007 Revision.

Commentary

COMMENT.

[1] The advocate has a duty to use legal procedure for the fullest benefit of the client's cause, but also a duty not to abuse legal procedure. The law, both procedural and substantive, establishes the limits within which an advocate may proceed. However, the law is not always clear and never is static. Accordingly, in determining the proper scope of advocacy, account must be taken of the law's ambiguities and potential for change.

[2] The filing of an action or defense or similar action taken for a client is not frivolous merely because the facts have not first been fully substantiated or because the lawyer expects to develop vital evidence only by discovery. Lawyers, however, are required to inform themselves about the facts of their clients' cases and the applicable law and determine that they can make good faith arguments in support of their clients' positions. Such action is not frivolous even though the lawyer believes that the client's position ultimately will not prevail. The action is frivolous if the lawyer is unable either to make a good-faith argument on the merits of the action taken or to support the action taken by a good-faith argument for an extension, modification, or reversal of existing law.

[3] In criminal cases or proceedings in which the respondent can be involuntarily institutionalized, such as juvenile delinquency and civil commitment cases, the lawyer is not only permitted, but is indeed required, to put the government to its proof whenever the client elects to contest adjudication. The lawyer's obligations under this rule are subordinate to federal or state law that entitles a defendant in a criminal matter to the assistance of counsel in presenting a claim or contention that otherwise would be prohibited by this rule.

Case Notes

RELATIONSHIP TO FEDERAL RULE OF CIVIL PROCEDURE 11 --

D.C. Bar Appx. A, Rule 3.2

State court rules are current with amendments through January 12, 2017. Local federal district and bankruptcy court rules are current with amendments received through January 1, 2017. With recent annotations.

District of Columbia Court Rules > DISTRICT OF COLUMBIA BAR RULES > APPENDIX A. RULES OF PROFESSIONAL CONDUCT

Rule 3.2. Expediting litigation.

- (a) In representing a client, a lawyer shall not delay a proceeding when the lawyer knows or when it is obvious that such action would serve solely to harass or maliciously injure another.
- (b) A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

Annotations

Notes

Comment to 2007 Revision.

Commentary

COMMENT.

[1] Dilatory practices bring the administration of justice into disrepute. Delay should not be indulged merely for the convenience of the advocates, or for the purpose of frustrating an opposing party's attempt to obtain rightful redress or repose. It is not a justification that similar conduct is often tolerated by the bench and bar. The question is whether a competent lawyer acting in good faith would regard the course of action as having some substantial purpose other than delay. Realizing financial or other benefit from otherwise improper delay in litigation is not a legitimate interest of the client.

Case Notes

RECIPROCAL DISCIPLINE. --

Because an attorney was disbarred in Missouri, for inter alia, abandoning clients, failing to cooperate with the disciplinary authorities, and practicing law while suspended, the attorney's actions violated D.C. R. Prof. Conduct 1.3, 1.4, 3.2, 5.5(a), and 8.1; therefore, the attorney was disbarred as a matter of reciprocal discipline. *In re de Clue*, 892 A.2d 1143, 2006 D.C. App. LEXIS 85 (2006).

HARASSMENT. --

Attorney was disbarred because Bar Counsel presented clear and convincing evidence that the attorney violated D.C. R. Prof. Conduct 8.4(d), 3.1, 3.2(a), 3.3(a)(1), and 4.4(a) by filing frivolous appeals in a California court, in moving in that court both to rescind an arbitration agreement after signing it and to remove the arbitrator after participating in the selection of him; the attorney also harassed a business partner with respect to an arbitration agreement. *In re Pelkey*, 962 A.2d 268, 2008 D.C. App. LEXIS 490 (2008).

Research References & Practice Aids

DECLARATION OF SERVICE

by

U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): 16-J-17320 and 17-J-00289

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 845 South Figueroa Street, Los Angeles, California 90017, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

NOTICE OF DISCIPLINARY CHARGES



By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))

- in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles.



By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))



By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))

- I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ('UPS').



By Fax Transmission: (CCP §§ 1013(e) and 1013(f))

Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.



By Electronic Service: (CCP § 1010.6)

Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.



(for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at Los Angeles, addressed to: (see below)



(for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested,

Article No.: 9414 7266 9904 2010 0792 62 at Los Angeles, addressed to: (see below)



(for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS,

Tracking No.: addressed to: (see below)

Person Served	Business-Residential Address	Fax Number	Courtesy Copy to:
TY O. CLEVINGER	Ty Odell Clevenger P.O. Box 20753 Brooklyn, NY 11202-0753	Electronic Address	

☐ via inter-office mail regularly processed and maintained by the State Bar of California addressed to:

N/A

I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ('UPS'). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: June 9, 2017

SIGNED:


Kimberly Bardales
Declarant